

REMARKS:

This is a full and complete response to the Office action dated April 24, 2009. Favorable reconsideration of the claims is respectfully requested.

REGARDING THE CLAIMS:

Claims 25, and 33-34 are pending in the application. No claims are amended with this reply. No new matter has been added.

IN RESPONSE TO THE OFFICE ACTION:

REJECTION UNDER 35 U.S.C. § 102:

Claim 25 stands rejected under 35 USC §103(a) as being obvious over Lechat et al., WO 02/00806 (“**Lechat**”), in further view of Delme et al., WO 02/00787 (“**Delme**”). Applicants respectfully traverse this rejection.

The Examiner has maintained the rejection set out in the Office Action of November 18, 2009. In particular, Examiner argues that Lechat teaches adhesives with improved die-cutting performance which use a tetrablock copolymer in an SISI configuration. The Examiner further asserts that Lechat fails to teach that said SISI block copolymers are linear, however Delme discloses linear SISI tetra block copolymers. The Examiner concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to configure elastomeric copolymers as taught by Lechat in the linear configuration as taught by Delme.

In the most recent Office Action of April 24, 2009, the Examiner states that Lechat teaches isoprene blocks having at least 15,000 and at most 150,000 or at least 20,000 to at most 80,000 and therefore overlap the ranges of the present claims. The Examiner also argues that Lechat discloses an internal unsaturated block of 20,000 to 70,000 and an exterior I block of 55,000 and therefore overlaps the present claims. It is urged by the Examiner that non-preferred portions of a reference can serve as a basis for 35 USC §103.

Applicants respectfully disagree with the characterization of Lechat in the Office Action. Applicants assert that the primary reference Lechat simply does not disclose, teach or suggest an SISI block copolymer where the end isoprene block is smaller than the middle isoprene block. Throughout the whole document, the underlying premise and overt teaching is that the end block is always larger than the middle isoprene block. Accordingly, Lechat either alone or in combination with Delme does not render the present claims obvious.

Applicants submit that Lechat does not teach or disclose any ranges which overlap those in the present claims and furthermore, even if it did, the reference teaches away from the claimed invention. Applicants note that on page 8, lines 4-5 of Lechat the following is stated:

“Polymers in which the internal block has Mw less than the end block are particularly useful.”

Although the Lechat reference states the above in positive terms, the clear inference of the above is that the end block of Lechat’s polymers are intended to be larger than the internal block.

The above quotation is stated immediately prior to the following:

“Polymers in which the internal block has a Mw less than the end block are particularly useful. Some invention copolymers have an internal unsaturated block with a molecular weight in the range 20,000 to 70,000, alternatively 25,000 to 50,000 and the external block has a molecular weight above 40,000, alternatively above 60,000, when it is a B block, and above 55,000, alternatively above 75,000, which it is an I block.

Accordingly, even though Examiner urges that the internal block may be 20,000 to 70,000 and that the lowest range for the end isoprene block is above 55,000, this still does not disclose overlapping ranges. As it is intended by the reference to utilize polymers where the end block is larger than the internal isoprene block, the above ranges should be read in accordance with the entire disclosure and teaching of the reference. It follows therefore that even with an internal block range of 20,000 to 70,000 it would be understood by those of skill in the art that if the internal block were 55,000, the end

isoprene block would accordingly be varied to be above 55,000 in order to maintain the end block as larger than the internal block. This is because it would be understood by those of skill in the art that, in the context of the entire disclosure of the reference, that when varying the internal I block molecular weight range, one would correspondingly vary the external molecular weight block to be larger.

Accordingly, Examiner's assertion on page 10 of the April 24, 2009 Office Action that the interior I block could be 70,000 and the exterior I block could be 60,000 would not occur. Instead, the end block would be varied to be larger than 70,000. This is in keeping with the quotation on page 8, lines 4-5 of Lechat that the end block be larger than the internal block.

The fact that the reference is limited only to block copolymers where the end block is larger than the internal block is further seen by the fact that in all examples of Lechat, the end block is always larger than the internal block.

For instance, in Example 2 of Lechat an SISI tetrablock is disclosed having an internal I block of 60,000 and an external I block of 70,000. Such an example disproves Examiner's assertion on page 10 of the Office Action that the internal I block could be 70,000 and the exterior block 60,000. As noted in Example 2, the internal I block has a molecular weight of 60,000, which is within the range disclosed on page 8 of the reference for internal blocks of 20,000 to 70,000. However, contrary to Examiner's assertion on page 10, the external I block in Example 2 was varied correspondingly to be larger than the internal block. This is in keeping with the entire teaching and disclosure of the reference. Applicants note that it has long been held that merely be cause a reference "can" be modified does not mean that the modification is obvious if the results would not have been predictable to one of skill in the art. *MPEP 2143.01(III)*.

A more dramatic disproportion in the size of the internal block and external block is shown in Example 3 where the exterior I block is three times the size of the internal I block. In particular, the internal I block is 30,450 and the external I block is 91,400. Therefore, the teaching of the reference is that the external block be larger, if not much larger than the internal I block.

From the above it can be seen that nowhere in the reference is it contemplated or even hinted that the external block should be anything other than larger than the internal I block. Accordingly, Examiner's examples are not non-preferred embodiments, they are simply not disclosed, taught or suggested by the reference. Accordingly, no prima facie case of obviousness may be shown because the reference does not disclose, teach or suggest that the interior block be larger than the exterior I block.

Furthermore even if the reference did disclose overlapping ranges as argued by the Examiner, the entire context of the reference teaches against such a modification. Applicants note that in the case of overlapping ranges, claims are not obvious in view of cited art if unexpected results are shown or that the art, in any material respect, teaches away from the claimed invention. *MPEP §2144.05(III)*. A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant. *In re Gurley, 31 USPQ2d 1130* (Fed. Cir. 1994) (emphasis added). Those of skill in the art would understand that Lechat is directed only to block copolymers where the external block is larger than the internal block. This can be seen by the quote on page 8 of the reference that the internal block have a less molecular weight than the end block, and furthermore, in view of the examples in Lechat which are limited only to block copolymers where the end block is larger than the internal block. Therefore, the present claims are not disclosed, taught or suggested by Lechat alone or in view of Delme. Accordingly, Applicants respectfully request the above mentioned rejection be withdrawn.

In view of the comments above, it is respectfully requested that the rejections be withdrawn and a Notice of Allowance issue with respect to the currently pending claims.

The undersigned representative requests any extension of time that may be deemed necessary to further the prosecution of this application.

The undersigned representative authorizes the Commissioner to charge any additional fees under 37 C.F.R. 1.16 or 1.17 that may be required, or credit any overpayment, to Deposit Account No. 14-1437, referencing Attorney Docket No.: 8132.210.NPUS00.

In order to facilitate the resolution of any issues or questions presented by this paper, the Examiner may directly contact the undersigned by phone to further the discussion.

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Respectfully submitted,

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